

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA**

**SIMON NEWMAN,**

**Plaintiff,**

**v.**

**Civil Action No. 5:06cv63  
(Judge Stamp)**

**AL HAYNES, K.M. WHITE, HARRELL  
WATTS, USP-HAZELTON AND STAFF, HARLEY LAPPIN,**

**Defendants.**

**REPORT AND RECOMMENDATION**

The *pro se* Plaintiff initiated this case on May 24, 2006, by filing a civil rights complaint, a motion to proceed as a pauper, an executed Consent to Collection of Fees form and a Prisoner Trust Account Report. That same day, the Clerk sent Plaintiff a deficiency notice advising him that the Court could not process his request to proceed as a pauper until such time as he filed ledger sheets for his inmate account showing all the transactions in that account for the six-month period preceding the filing of this action. The notice also advised Plaintiff that the failure to file the ledger sheets within 30 days would result in the dismissal of his case.

On November 24, 2006, the undersigned issued a Show Cause Order because the Plaintiff had failed to comply with the deficiency notice. The Plaintiff was given ten days to show cause why his case should not be dismissed.

A review of the file shows that as of the date of this Opinion, Plaintiff has not filed the requested forms, has not filed a motion to extend time to do so, or otherwise explained his reasons

for noncompliance.<sup>1</sup> Accordingly, it is the recommendation of the undersigned that the instant case be DISMISSED without prejudice for the failure to prosecute unless the Court hears to the contrary within ten (10) days from the date of this Order. Any pleadings, motions, letters or other documents filed in response to this Report and Recommendation should be submitted to the Honorable Frederick P. Stamp, Jr., United States District Judge. Failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to mail a copy of this Report and Recommendation to the *pro se* plaintiff and counsel of record, as applicable.

DATED: May 8, 2007

/s/ James E. Seibert  
JAMES E. SEIBERT  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> The undersigned notes that the show cause order was returned as undeliverable (“no longer at this address”) on November 27, 2006. On December 28, 2006, the order was resent to the Plaintiff’s new address. On March 1, 2006, the Court received a letter from Plaintiff in which he requested copies of his docket sheet and information for filing an appeal. That information was sent to the Plaintiff, by the Clerk’s office, that same day. However, Plaintiff’s letter is not a response to the Show Cause Order, and the Plaintiff still has not filed the required forms so that the Court can do an *in forma pauperis* determination.